

Tax Type: Property Tax
Issue: Charitable Ownership/Use

LEWIS AND CLARK LIBRARY SYSTEM)		
Applicant)	A.H. Docket #	01-PT-0054
)	Docket #	01-60-06
v.)		
)	Parcel Index #	14-1-15-23-02-201-004
THE DEPARTMENT OF REVENUE)		
OF THE STATE OF ILLINOIS)		

Appearances: Mr. Dean Sweet for Lewis and Clark Library System; Mr. George Logan, Special Assistant Attorney General for the Illinois Department of Revenue.

The hearing in this matter was held on March 11, 2002, to determine whether Madison County Parcel Index No. 14-1-15-23-02-201-004 qualified for exemption during the 2001 assessment year.

Ms. Susan Lucco, Executive Director of the Lewis and Clark Library System, (hereinafter referred to as the "Applicant") was present and testified on behalf of applicant.

The issue in this matter is whether the applicant used Madison County Parcel Index No. 14-1-15-23-02-201-004 for exempt purposes during the 2001 assessment year. After a thorough review of the facts and law presented, it is my recommendation that the requested exemption be granted. In support thereof, I make the following findings and conclusions in accordance with the requirements of Section 100/10-50 of the Administrative Procedure Act (5 **ILCS** 100/10-50).

FINDINGS OF FACT:

1. The jurisdiction and position of the Department that Madison County Parcel Index No. 14-1-15-23-02-201-004 did not qualify for a property tax exemption for the 2001 assessment year were established by the admission into evidence of Dept. Ex. No. 1. (Tr. p. 8)

2. On March 19, 2001, the Department received the request for exemption of Madison County Parcel Index No. 14-1-15-23-02-201-004. On June 14, 2001, the Department denied the requested exemption finding that the property was not in exempt use. On July 3, 2001, applicant timely protested the denial and requested a hearing. The hearing on March 11, 2002, was held pursuant to that request. (Dept. Ex. No. 1)

3. Applicant acquired the subject real estate by a warranty deed dated May 7, 1996. In 1996, applicant demolished the house, shed, garage, bar-b-que pit, sidewalk, stairs, and driveway on the property. (Dept. Ex. No. 1)

4. The real property is currently vacant land measuring 100 feet by 150 feet and is adjacent to applicant's asphalt parking lot. (Dept. Ex. No. 1)

5. The property was purchased to provide a green space transition between the commercial development on one side of applicant's library system building and the residential homes on the other side. Program activities such as librarian meetings for continuing education and training classes have been and will be conducted on the real estate. The space will be used for overflow parking if needed for large meetings. (Dept. Ex. No. 1; Tr. pp. 18-21, 32-34)

6. Applicant exists solely on grant funds that it gets on an annual basis from the State Library. Applicant's service area covers about 5,000 square miles and almost 600,000 people. (Tr. p. 10)

7. Applicant has 150 member libraries that are its direct constituents. The member libraries are public libraries, city libraries, school and academic libraries, and special libraries. (Tr. pp. 10-12)

8. In the last 10 years, applicant's function has changed dramatically. Rather than being a storehouse and purveyor of books to its member libraries, applicant's building now houses computer laboratories and training equipment. A video teleconferencing center is also within applicant's building. (Tr. pp. 10-14)

9. The staff of applicant's member libraries now need to come to the applicant's building for training and continuing education. Applicant offered 366 programs from July 1, 2000 through June 30, 2001 for training and education of that staff. (Tr. pp. 10-14, 38)

10. Businesses around applicant's location are developing and the areas applicant could once use for overflow parking for its programs are no longer available. (Tr. pp. 15-18)

11. Applicant's asphalt parking lot that is adjacent to the real property at issue contains 110 parking slots. (Tr. p. 17)

12. The applicant has chosen not to asphalt the area at issue, both for economic reasons and because applicant is located in a transitional area between residences and businesses. Applicant keeps the area mowed and maintained. (Dept. Ex. No. 1; Tr. pp. 18, 22-23)

13. In prior years, applicant has used the area for outdoor receptions and a computer-bashing event. In the 2001 assessment year, applicant did not use the property for parking or any other use than as green space. (Dept. Ex. No. 1; Applicant's Ex. No. 3; Tr. pp. 18- 26)

14. Applicant does not intend that the property be used for anything but overflow parking, outdoor events, or as green space. (Tr. pp. 21-22, 29)

CONCLUSIONS OF LAW:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the exemption for library systems found at 35 **ILCS** 200/15-66. That portion of the statutes exempts certain property from taxation in part as follows:

All property used exclusively for public purposes belonging to a library system established under the Illinois Library System Act¹ or belonging to a public library district established under the Public Library District Act of 1991² is exempt.

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

Applicant acquired the subject property to use as green space, overflow parking, and outdoor recreational activities. As applicant did not use the property for overflow parking or for outdoor activities in 2001, the Department argues that under Skil Corp. v. Korzen, 32 Ill.2d 249 (1965) that applicant's intention to use property for an exempt use will not qualify for a property tax exemption. In Skil Corp., Cook County acquired property by eminent domain proceedings to use in construction of a portion of an expressway. The roadway was never constructed and there was no evidence of use for exempt purposes during the six years the county owned the property. The applicable statutory exemption provision at issue therein required that a

¹ 75 **ILCS** 10/1 ET SEQ.

² 75 **ILCS** 15/1-1 ET SEQ. (REPEALED).

municipal corporation own the property and use the property exclusively for public purposes. The Illinois Supreme Court found that evidence that land was acquired for exempt purposes does not eliminate the need to establish that the land was used for exempt purposes. The court denied the exemption.

The property herein is owned by a library system. The exemption provision for library systems requires use for public purposes and ownership by a library system. The only issue before me is whether the applicant's use of the property in 2001 constitutes exempt use under the statutes.

The property was acquired in 1996 for green space, outdoor activities, and overflow parking if needed. In 1996 the structures on the property were demolished. The applicant kept the real estate mowed through 2001. Prior to 2001 the property was used for outdoor activities of the applicant. The land was available for anyone to park on if needed during 2001.

Lutheran Church of the Good Shepherd of Bourbonnais v. Department of Revenue, 316 Ill.App.3d 828 (3rd Dist. 2000) involves a church that acquired 3.347 acres adjacent to its land containing the worship facility and parking lot. The church acquired the property for recreational activities and an extension of the existing churchyard. The appellate court held that the fact that the church elected not to plant crops on the property, as had been done in previous years, along with mowing the property in August and tilling it in November was sufficient adaptation of the property for exempt purposes. The appellate court relied upon the decisions in Weslin Properties, Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2nd Dist. 1987) and In re Application of County Collector, 48 Ill.App.3d 572 (1st Dist. 1977). In re Application of County Collector concerns another highway proceeding in Cook County, as did Skil Corp. the case relied upon by the Department. In County Collector the court held that the property qualified for exemption for the year at issue because the land was used as an expressway. The appellate court distinguishes Skil Corp. *supra* by stating:

In Skil Corp. absolutely no evidence was offered to show that the land had at any time been used as an expressway. Further, the court found that the fact that the property was reconveyed to a private corporation after six years tended

strongly to negate the inference that it was used as a highway in the intervening period. Neither of these features, on which the court in *Skil Corp.* placed heavy emphasis, is present in the case before us. *Id.* at 582

I believe that the facts in Skil Corp. can also be distinguished from the facts before me. Evidence shows that applicant herein demolished all buildings on the subject property shortly after purchasing the property in 1996. Applicant still owns the property. Applicant used the property for its intended outdoor recreation programs prior to the year at issue. It was available for parking in 2001 and was used as green space from the time of the demolition through 2001. I therefore find that the applicant used the property for exempt purposes prior to and during 2001.

For the foregoing reasons, it is recommended that Madison County Parcel Index No. 14-1-15-23-02-201-004 be exempt from taxation for the 2001 assessment year.

Respectfully Submitted,

Date: May 30, 2002

Barbara S. Rowe
Administrative Law Judge